

ARTICLE 9 – PROCEDURES

9.1.0 AMENDMENTS TO ZONING ORDINANCE OR OFFICIAL ZONING MAP

9.1.1 Authority The Board of Aldermen may amend the text of this Zoning Ordinance or the Official Zoning Map in accordance with the following provisions.

9.1.2 Map Amendments Amendments to the Official Zoning Map shall meet one of the following requirements:

- A. The Town of Nolensville Comprehensive Plan has been amended and the Official Zoning Map needs to be brought into conformance with the revised plan.
- B. An unintentional mistake was made in drawing the original Map.
- C. Conditions have changed, such as new roads or utilities investments, making another location more favorable for development.
- D. Growth rates have changed, thereby increasing the need for development in the town.
- E. The Historic District Commission has recommended a Historic District Overlay to protect an existing historical resource.
- F. The Planning Commission has recommended approval of an open space development or planned unit development overlay.

9.1.3 Text Amendments Amendments to the text of this ordinance shall meet one of the following requirements:

The use desired is not covered in the text of the zoning ordinance but is acceptable because:

- A. The use proposed is in accordance with the purpose of the zoning district; and,
- B. There are similar uses in the district; and,
- C. The intensity of the proposed use is consistent with other uses in the district;

New conditions have arisen that have not been addressed in the zoning ordinance. These new conditions must be one of the following:

- A. The Town of Nolensville Comprehensive Plan has been amended, and the Zoning Ordinance needs to be brought into conformity with the Plan.
- B. Changing market or other conditions require new forms of development or new procedures to meet these changing needs.
- C. New methods of development or providing infrastructure makes it necessary to alter the Zoning Ordinance to meet there new conditions.

- D. Changing governmental finances requires amending the text of the zoning ordinance to be in keeping with the needs of government to provide and afford new public services.
- E. After experience with the regulations, adjustments are needed to achieve the desired objectives.
- F. If, in the opinion of the Board of Aldermen, the proposed change would help to promote the health, safety and welfare of the community.

9.1.4 Application Applications for any change or amendment to this zoning ordinance or the Official Zoning Map shall be filed with the Planning Commission at least twenty-one (21) days prior to the date of the next scheduled meeting of the Planning Commission for which the applicant wishes to be considered. The application form shall be dictated by the Planning Commission and any application must be accompanied by all information necessary to assure the practicable presentation of facts for the permanent record. Applications for changes to the Official Zoning Map must be submitted with the names of all adjacent property owners and verification by at least one of these owners or lessees attesting to the truth and correctness of all facts and information presented with the application. Applications for changes and amendments may be initiated by resolution of the Board of Aldermen, by motion of the Planning Commission, or by petition of any property owner or contract purchaser filed with the Planning Commission. The application shall be evaluated by the Planning Commission for its contribution to public necessity, convenience, general welfare, or good planning and zoning principles. The Planning Commission shall then make its recommendations to the Board of Aldermen.

9.1.5 Board of Aldermen Public Hearing After receiving the Planning Commission's recommendation on the proposed amendment, but before the adoption of such amendment, the Board of Aldermen shall hold a public hearing. Notice of each hearing shall be given to all adjacent property owners of the subject property, where applicable, by U.S. Mail at least twenty-one (21) days before the date of the hearing.

Notice shall also be given in one (1) publication in a newspaper of general circulation in the Town at least twenty-one (21) days before the date of the hearing. In addition, a sign providing notice of the time, place and subject of the proposed amendment shall be posted by the Town in a prominent location on the subject property at least twenty-one (21) days before the date of the hearing.

9.1.6 Decisions After the public hearing, the Board of Aldermen shall consider all recommendations and vote on the adoption of the proposed amendment. The proposed amendment shall become effective with a favorable vote by a majority of the total membership of the Board of Aldermen.

9.1.7 Failure to Notify The intention of the public hearings and notifications thereof is to provide due notice of proposed zoning changes to all persons who may be

interested or affected by the changes. Failure to notify, provided that it was not intentional, shall not invalidate any recommendations or decisions.

- 9.1.8 Re-applications** Re-applications for the same or substantially the same amendment to the Official Zoning Map or Zoning Ordinance previously disapproved by the Board of Aldermen shall not be accepted by the Planning Commission for a period of one (1) year following the Board's last action.

9.2.0 VARIANCES

- 9.2.1 Authority** The Board of Zoning Appeals may grant variances from the strict application of the provisions of this zoning ordinance based upon findings of fact related to the standards in this article.
- 9.2.2 Applications** A written application for a variance shall be filed with the Board by the landowner or representative in a form and content established by the Board. An applicant shall state why the variance is being requested, what function the variance would accomplish and what specific and unique circumstances exist that would authorize consideration by the Board under the review standards of this article. The complete application shall be submitted to the Board at least twenty-one (21) days prior to the next scheduled meeting of the Board at which the applicant wishes to be considered.
- 9.2.3 Public Hearing Required** Not more than sixty (60) days after filing of a complete application for a variance, the Board of Zoning Appeals shall hold a public hearing on the application. Notice of the hearing shall be given to all adjacent property owners of the subject property by U.S. Mail at least ten (10) days before the date of the hearing. Notice shall also be given in one (1) publication in a newspaper of general circulation in the Town at least ten (10) days before the date of the hearing. In addition, a sign providing notice of the time, place, and location of the hearing, shall be placed on the subject property at least ten (10) days before the date of the hearing.
- 9.2.4 Review Standards** - In accordance with Section 13-7-207, Tennessee Code Annotated, the Board shall not grant a variance without a finding of fact and due consideration of each of the following standards based on evidence presented by the applicant.
- A. Physical Characteristics of the Property** the exceptional narrowness, shallowness or shape of a specific piece of property, exceptional topographic condition, or other extraordinary and exceptional condition of such property would result in peculiar and exceptional practical difficulties to, or exceptional or undue hardship upon, the owner of such property upon the strict application of any regulation enacted by this ordinance.

- B. **Hardship Not Self-Imposed.** The alleged difficulty or hardship has not been treated by the previous actions of any person having an interest in the property after the effective date of this zoning ordinance.
 - C. **Financial Gain Not Only Basis.** Financial gain is not the sole basis for granting the variance.
 - D. **No Harm to Public Welfare.** The granting of the variance will not be detrimental to the public welfare and will not substantially impair the intent and purpose of this zoning ordinance.
- 9.2.5 Decision** Any Board decision on a variance shall indicate the article of this zoning ordinance under which the variance or exception is being considered and include substantive findings of fact relating to the specified review standards. In the approval of a variance, findings shall specifically identify the unique characteristics of the property and the precise nature of the hardship. In the denial of a variance or exception request, findings shall specifically identify the standards that were not met. The Board shall render its decision within thirty (30) days of the meeting on this application, unless an extension of this time is agreed to by the applicant. It is the intent of the Board of Mayor and Alderman not to create a conflict, in any manner, with the provisions of T.C.A. 13-7-207 and in the event of a conflict between the language of this Ordinance and T.C.A. 13-7-207, the provisions of T.C.A. 13-7-207 shall control and prevail.

9.3.0 BUILDING PERMIT

- 9.3.1 Building Permit Required** A landowner or their designee is required to file an application for a building permit with the Town prior to commencing any excavation, construction, or alteration of a building, accessory structure, incidental structures per International Code Council [examples (but not limited to): decks, arbors, fences, retaining walls] or initiating a change in use on the property.
- 9.3.2 Building Permit Application** The application requirements for a building permit shall be established by the Town in a form and content appropriate to demonstrate that all structures will be constructed in compliance with all applicable provisions of this code. Every application for a building permit shall include proof of required site plan approval.
- 9.3.3 Issuance of Building Permit** If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this zoning ordinance and all other ordinances of the Town then in force, the Mayor or his designee shall issue a building permit for such excavation or construction. No building permit shall be issued until:
- A. All necessary approvals have been issued for water supply, sewer or septic tanks and driveways.
 - B. The necessary site plans and plats of subdivision have been fully approved.

- C. Any required related off-site or on-site improvements are constructed or a performance bond, escrow, or other acceptable instrument approved as to form by the Town attorney is posted guaranteeing the improvements (see Article 11.2.9).

9.3.4 Expiration A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made on the project by that time. Substantial progress shall be determined by the Mayor or his designee and shall relate to the time period between inspections. If no inspections are completed within six month of the issuance of any permits the master permit shall be null and void.

9.4.0 CERTIFICATE OF OCCUPANCY

9.4.1 Certificate of Occupancy Required Following issuance of a building permit, no structure or zone lot shall be used or occupied until the Mayor or his designee has certified in a final inspection that the property is in full compliance with all applicable provisions of this ordinance. If the certificate is refused, then the codes officer shall state the refusal in writing, with the cause.

9.5.0 CERTIFICATE OF APPROPRIATENESS

9.5.1 Certificate of Appropriateness Required No construction, alteration, demolition or relocation of any historic site, structure, or sign or any site, structure or sign located within a designated historic district, shall occur until after an application for a Certificate of Appropriateness of such work has been approved by the Historic Zoning Commission. The commission shall not consider interior structure modifications.

9.5.2 Application The application requirements for a Certificate of Appropriateness shall be established by the commission in a form and content appropriate to demonstrate that the project is in compliance with all applicable provisions of this ordinance. The commission shall review any application for its completeness and notify the applicant of any deficiencies.

9.5.3 Procedure Upon filing of a complete application, the Historic Zoning Commission has thirty (30) days to review the application and render its decision from its first consideration by the commission. With the exception of exterior painting of previously painted surfaces (see Article 1.10.0), a public hearing shall be held on the application to which notice shall be given to all adjacent property owners by U.S. Mail at least ten (10) days before the date of the hearing, and notice shall be given in one (1) publication in a newspaper of general circulation in the Town at least ten (10) days before the date of the hearing. In addition, a sign providing notice of the time, place, and proposed project shall be posted by the Town in a prominent location on the subject property at least ten (10) days before the date of the hearing. Approval of all minor projects including, but not limited to, the Minor Projects listed in Article 9.5.5, may be obtained by

administrative approval by the Mayor and/or his designee and the chairman of the Historic Zoning Commission and/or his designee without a public hearing. This type of approval may be granted within seven (7) days of receipt of a completed application. Once approval is granted, the applicant must obtain all appropriate building permits.

9.5.4 Decisions The Historic Zoning Commission shall render its decision either to grant the application approval, grant it approval subject to conditions or deny it approval. All decisions of the commission shall be in writing and shall state the findings of the commission, its recommendations as to approval with or without conditions, disapproval, or deferral, and the reasons therefore within 30 days of first consideration by the Historic Zoning Commission of the application for a Certificate of Appropriateness. A Certificate of Appropriateness shall expire in one (1) year from the date of approval if a substantial amount of the approved work has not commenced.

9.5.5 Exterior Painting of Previously Painted Surfaces A proposed alteration to a Designated Historic site and/or structure may only require an administrative review to obtain a Certificate of Appropriateness if the proposed alteration falls under the following minor alterations, which are also referred to, for the purposes of this ordinance, Minor Projects. These would include, but not be limited to, the following:

- A. Minor repairs to the outside of the structure.
- B. Minor roof repairs.
- C. Minor landscaping.
- D. Installation and/or replacement of air conditioning units.
- E. Minor repairs to chimneys and masonry.
- F. Minor modifications to accommodate access for the disabled.
- G. Minor repairs to existing signs.
- H. Exterior painting on previously painted surfaces. Paint colors must be selected from pre-approved paint palette.
- I. Replacement or moving of existing mailbox due to damage or destruction.

9.5.6 Re-applications Re-applications for the same or substantially the same Certificate of Appropriateness previously disapproved by the Historic Zoning Commission shall not be accepted by the Commission for a period of one (1) year following the Commission's last action.

9.6.0 CODES ENFORCEMENT

9.6.1 Mayor or his Designee Mayor or his designee is responsible for the enforcement of all provisions of this code and is authorized to stop work that has commenced without obtaining a required building permit or is otherwise not in keeping with an approved final site plan or building permit. The codes enforcement officer is also responsible for the daily administration of this ordinance. In performance of administering and enforcing this ordinance, he shall:

- A. Issue all Building Permits and make and maintain records thereof.
- B. Issue all Certificates of Occupancy and make and maintain records thereof.
- C. Issue and renew, where applicable, all Temporary Use Permits and make and maintain records thereof.
- D. Maintain and keep current zoning maps and records of amendments thereto.
- E. Receive, file, and forward to the Board of Zoning Appeals all applications for variances or other matters on which the Board is required to act under the provisions of this ordinance.
- F. Conduct inspections as required in this ordinance and such other inspections as are necessary to insure compliance with the various other general provisions of this ordinance. The Mayor or his designee shall possess the right to enter upon any premises for the purposes of making inspections of buildings or premises necessary to carry out his authorized duties.

9.6.2 Notification If the Mayor or his designee has reason to believe that there is a violation of this ordinance, the owner/operator shall be notified to immediately correct the violation. If necessary, governmental agencies or independent experts may be retained to perform tests to determine the existence and extent of a violation, with all associated costs assessed to the owner/operator if a violation is verified. Failure to correct violations within a reasonable time authorizes the Mayor or his designee to take all necessary measures to enforce the provisions of this ordinance.

9.6.3 Violations Any violation of this ordinance shall be a misdemeanor offense punishable by law. Each day of a violation shall constitute a separate offense.

9.6.4 Penalties Any violation of this ordinance shall be assessed as a civil penalty at the rate of \$50 per day or other penalties as defined within the Town Charter. In addition, the Mayor or his designee is authorized to impose double fees for a building permit when work has commenced or occupancy occurs without obtaining a required building permit.

9.6.5 Remedies The Mayor or his designee, may, in addition to other remedies, institute injunction, mandamus or other appropriate action to correct or abate a violation of this code. Where a violation exists, the Mayor or his designee may request that utility service be curtailed until the violation is corrected or abated.

9.6.6 Severability Should any article, section, clause or provision of this zoning ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared to be unconstitutional or invalid, each article, section, clause and provision hereof being declared severable.

9.6.7 Interpretation Whenever the conditions of this ordinance require more

restrictive standards than are required in or under any other statute, the requirements of this ordinance shall govern. Whenever the conditions of any other statute require more restrictive standards than are required by this ordinance, the conditions of such statute shall govern.

9.6.8 Effective Date This ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

Certified by the Nolensville Planning Commission: _____
Chair

Approved and adopted by the Nolensville Board of Mayor and Aldermen:

PASSED: First Reading _____
Date

Second Reading _____
Date

Mayor Date

APPROVED AS TO FORM: _____
Town Attorney

ATTEST: _____
Town Recorder